

AMENDED IN SENATE MARCH 24, 2003

**SENATE BILL**

**No. 1016**

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**Introduced by Senator Bowen**

February 21, 2003

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An act to add Section ~~22964~~ to the ~~Business and Professions~~ ~~30101.8~~ to the Revenue and Taxation Code, relating to tobacco.

LEGISLATIVE COUNSEL'S DIGEST

SB 1016, as amended, Bowen. Tobacco products: ~~sales to minors~~ *taxation.*

~~Existing law prohibits any person, firm, or corporation that knowingly or under circumstances in which it has knowledge, or should otherwise have grounds for knowledge, from selling, giving, or in any other way furnishing any tobacco product to a person under 18 years of age, with a violation of this prohibition being subject to criminal or civil penalties.~~

~~Existing law also establishes the Stop Tobacco Access to Kids Enforcement (STAKE) Act. The STAKE Act is designed to reduce the availability of tobacco products to minors through specified sales restrictions and enforcement activities. Existing law authorizes the State Department of Health Services to assess civil penalties against any person, firm, or corporation that furnishes a tobacco product to a minor.~~

*The Cigarette and Tobacco Products Tax Law requires distributors and wholesalers of cigarette and tobacco products to be licensed by the State Board of Equalization. That law requires every distributor of cigarettes to pay taxes, as prescribed, on the distribution of cigarettes.*

*Existing law requires that, except under specified circumstances, each retail sale of cigarettes in the state to be a vendor-assisted,*

*face-to-face sale, as defined. One of these exceptions is when all applicable state taxes have been paid.*

This bill would prohibit a public or private postal or package delivery service from knowingly delivering a package that contains a tobacco product unless a label is plainly and visibly affixed to the package that states that the package contains tobacco and is not to be delivered to any person under 18 years of age the seller has paid all applicable excise and use taxes.

Existing law permits the board or its authorized representative to make examinations of the books, papers, records, and equipment of any person dealing in, transporting, or storing cigarettes or tobacco products and other investigations that it deems necessary in carrying out these provisions.

Existing law authorizes the board, by ruling or otherwise, to require additional, other, or supplemental reports, as specified, from licensed distributors, dealers, transporters, common and private carriers, warehousemen, bailees, and other persons.

This bill would also impose other requirements, as specified, upon a public or private postal or package delivery service to verify that a person who receives delivery of a package containing tobacco products is over the age of 18 years, and that applicable excise and use taxes have been paid require a public or private postal or package delivery service to submit a valid invoice, as specified, for each package containing a tobacco product that it delivers or, if it cannot provide the invoice, information as required by the board.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1    ~~SECTION 1. Section 22964 is added to the Business and~~
- 2    ~~Professions Code, to read:~~
- 3    ~~22964.—~~
- 4    *SECTION 1. Section 30101.8 is added to the Revenue and*
- 5    *Taxation Code, to read:*
- 6    *30101.8. (a) No public or private postal or package delivery*
- 7    *service shall knowingly deliver a package containing a tobacco*
- 8    *product in this state unless the package is affixed with a label that*
- 9    *plainly and visibly states that the package contains tobacco and is*

~~not to be delivered to any person under 18 years of age. seller is in compliance with Sections 30101 and 30101.7.~~

(b) A public or private postal or package delivery service that knowingly accepts a tobacco product for direct delivery to the purchaser shall comply with all of the following requirements before completing delivery of the package:

~~(1) Require the signature of the purchaser upon delivery.~~

~~(2) Inspect a valid form of official identification, as described in subdivision (e), to verify that the purchaser is over 18 years of age and that the delivery address on the package matches the address on the identification provided by the purchaser.~~

~~(3) Submit a copy of a valid invoice, as described in subdivision (e), purchaser shall submit a copy of a valid invoice from a manufacturer, seller, or distributor that includes the name and address of the purchaser, the brand name of the tobacco product, and the type and quantity of tobacco purchased for each package containing a tobacco product to ensure that appropriate excise and use taxes, pursuant to requirements contained in Part 13 (commencing with Section 30001) of Division 1 of the Revenue and Taxation Code have been collected.~~

~~(c) For the purposes of this section, the following definitions apply:~~

~~(1) "Official identification" means a valid California's driver's license, passport, state-issued identification, United States Military identification, or an immigration card.~~

~~(2) "A valid invoice" means an invoice from a manufacturer, seller, or distributor that includes the name and address of the purchaser, the brand name of the tobacco product, and the type and quantity of tobacco purchased. this part have been collected.~~

~~(c) If the public or private postal or package delivery service cannot provide a copy of the invoice pursuant to subdivision (b), it may submit information it is required to maintain pursuant to Section 30454, and regulations adopted pursuant to Section 30451.~~